

1 BILL NO. G-94-06-13

2 GENERAL ORDINANCE NO. G-15-94.

3 AN ORDINANCE for the purpose of
4 vacating a dedicated utility easement.

5 WHEREAS, a petition to vacate a dedicated utility
6 easement within the City of Fort Wayne (as more specifically
7 described below) was duly filed with the City Planning
8 Commission; and

9 WHEREAS, said Commission duly held a public hearing
10 thereon; and

11 WHEREAS, said Commission has duly forwarded its
12 recommendation to this body approving said petition, and this
13 body having held a public hearing on said vacation as provided
14 in I.C. 36-7-3-12; and

15 WHEREAS, this body concurs in the recommendation of the
16 City Planning Commission.

17 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
18 THE CITY OF FORT WAYNE, INDIANA:

19 SECTION 1. That the petition filed herein to vacate a
20 dedicated utility easement within the City of Fort Wayne, more
21 specifically described as follows, to-wit:

22 The South 15.0 feet of Lot Numbered 2, and the East 15.0
23 feet of Lot Numbered 3 in Herman Young Homestead
24 Addition, Section "A", as recorded in the plat thereof in
the Office of the Recorder of Allen County, Indiana, more
particularly described as follows:

25 Beginning at the Southeast corner of Lot Numbered 2 in
26 Herman Young Homestead Addition, Section "A", as recorded
27 in the plat thereof in the Office of the Recorder of
28 Allen County, Indiana; thence West along the South line
29 of said Lot Numbered 2, a distance of 140.0 feet to the
30 Southwest corner of said Lot Numbered 2, and the
31 Northeast corner of Lot Numbered 3 in said Addition;
32 thence South with a deflection angle to the left of 89
degrees 19 minutes along the East line of said Lot
Numbered 3, a distance of 140.0 feet to the Southeast
corner of Lot Numbered 3; thence West with a deflection
angle to the right of 89 degrees 19 minutes along the
South line of said Lot Numbered 3, a distance of 15.0
feet; thence North with a deflection angle to the right
of 90 degrees 41 minutes and parallel to the East line of
said Lot Numbered 3, a distance of 155.0 feet; thence
East with a deflection angle to the right of 89 degrees
19 minutes, parallel to and 15.0 feet North of the South
line of the aforesaid Lot Numbered 2, a distance of 155.0
feet to a point on the East line of said Lot Numbered 2;
thence South along the East line of said Lot Numbered 2,
a distance of 15.0 feet to the point of beginning,
containing 0.10 acres.

1 and which vacating allows the dedicated utility easement to
2 revert to the ownership of the adjacent property owners.

3 SECTION 2. That this Ordinance shall be in full force
4 and effect from and after its passage, any and all necessary
5 approval by the Mayor.

6 Mark C. Quintana

7 COUNCILMEMBER

8
9 APPROVED AS TO FORM AND LEGALITY:

10 J. Timothy McCauley
11 J. TIMOTHY MCCAULAY, CITY ATTORNEY

12 ** Public hearing to be held on Tuesday,
13 the 26th day of July, 1994,
14 in the Council Chambers.

15 Sandra E. Kennedy
16 Sandra E. Kennedy, City Clerk

Read the first time in full and on motion by Bradbury,
and duly adopted, read the second time by title and referred to the
Committee on Regulation (and the City Plan Commission
for recommendation) and Public Hearing to be held after due legal notice, at
the Common Council Council Conference Room 128, City-County Building, Fort
Wayne, Indiana, on _____, the _____ day of
_____, 19____, at _____ o'clock
_____, M., E.S.T.

DATED: 6-14-94

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Quinta,
and duly adopted, placed on its passage. PASSED LOST
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>7</u>			<u>2</u>
BRADBURY				<u>1</u>
EDMONDS	<u>1</u>			
GIAQUINTA	<u>1</u>			
HENRY				<u>1</u>
LONG	<u>1</u>			
LUNSEY	<u>1</u>			
RAVINE	<u>1</u>			
SCHMIDT	<u>1</u>			
TALARICO	<u>1</u>			

DATED: 7-26-94

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK
Neddy E. Clark, Deputy Clerk

Passed and adopted by the Common Council of the City of Fort Wayne,

Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. 12-15-94
on the 26th day of July, 1994

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK
Neddy E. Clark, Deputy Clerk

David C. Long
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 27th day of July, 1994,
at the hour of 1:30 o'clock P., M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK
Neddy E. Clark, Deputy Clerk

Approved and signed by me this 1st day of August,
1994, at the hour of 11:45 o'clock P. M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

RECEIPT

No 14929

COMMUNITY & ECONOMIC DEVELOPMENT

FT. WAYNE, IN., 5-10 1994

RECEIVED FROM NBD \$ 150.00

THE SUM OF One hundred & fifty + 00/100 DOLLARS

ON ACCOUNT OF NBD

299/86

casement Vacation

PAID BY: CASH ☐ CHECK ☒ M.O. ☐

AUTHORIZED SIGNATURE Tap B

Date Filed: May 10, 1994

VACATION PETITION

NBD BANK, N.A.
(Applicant's Name or Names)
PETITION TO VACATE UTILITY EASEMENT
(Street, Alley, Utility Easement, Plat, Other)

TO: THE CITY PLAN COMMISSION
CITY OF FORT WAYNE, INDIANA

The undersigned petitioner(s), does hereby respectfully petition the Fort Wayne City Plan Commission to vacate the following: A 15 foot utility easement as set forth in the restrictions and plat of Lots 2, 3, 4 and 5 in Herman Young Homestead Addition, Section "A", according to the plat thereof in the Office of the Recorder of Allen County, Indiana.

Said easement which is sought to be vacated is legally described as follows: A copy of the legal description is attached hereto as Exhibit "A" and a copy of the survey prepared by John R. Donovan, Registered Land Surveyor is attached hereto as Exhibit "B".

(Legal Description of property being vacated. If additional space is needed use reverse side.)

In support thereof, your petitioner(s) would represent as follows:

(List reasons for requesting vacation.)

The Bank is the fee simple title owner to Lots #2, 3, 4, and 5 in Herman Young Homestead Addition, Section A, according to the recorded plat thereof and the Bank desires to vacate the utility easement so that the property may be sold and developed for commercial usage.

It is the understanding of the Petitioner that there are no utilities located within the area of the easement which is to be vacated herein and that the Bank will also, simultaneously herewith, be seeking to set aside the restrictive covenants as they effect the property owned by the Bank so that the same may be sold and developed as a commercial property.

The real estate is currently zoned B-4; however, the Restrictive Covenants provide for residential usage. A copy of said Restrictive Covenants and diagram of plat are incorporated by reference herein, made a part hereof and attached hereto as Exhibit "C".

(If additional space is needed use reverse side.)

Notices should be directed to Scott's Food Stores, Inc., c/o Charles C. Jensch, Esq., 4800 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota 55402-2208.

Your petitioner files this petition pursuant to the authority granted in Indiana Code, and provisions of local ordinance, in order to complete the vacation as described.

WHEREFORE, your petitioner prays that the above described 15 foot utility easement be vacated according to the provisions of the Indiana Law pertaining thereto.

DATED THIS 10th DAY OF May, 1994

A. Dale Bloom - #2784-02
BLOOM, BLOOM, MORE and MILLER
203 E. Berry St., Suite 1500
Fort Wayne, Indiana 46802
Attorneys for NBD Bank, N.A.

Telephone: (219) 424-5930

Scott's Food Stores, Inc. is the owner of Lot 1 in Herman Young Homestead Addition, Section "A", according to the recorded Plat thereof.

Legal Description of Property:

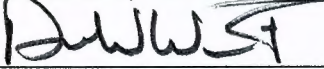
Additional Reasons for Vacation Request:

Owners of Adjacent Property:

_____	_____	_____
_____	_____	_____
_____	_____	_____

Adjacent Property	Address/Zip	Signature
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NBD BANK, N.A.



(Petitioner's Signature)

Dean W. Weinert, its First Vice President
Owners TYPED Name

NOTICE:

FILING OF THIS APPLICATION GRANTS THE CITY OF FORT WAYNE PERMISSION TO POST "OFFICIAL NOTICE" ON THE PETITIONED PROPERTY.

FAILURE TO POST, OR TO MAINTAIN POSTING CAN PREVENT THE PUBLIC HEARING FROM BEING HELD.

AGENT:

BLOOM, BLOOM, MORE and MILLER

A. Dale Bloom - #2784-02

Name

203 E. Berry St., Suite 1500

Street Address

Fort Wayne, Indiana 46802-2786

City/State/Zip

(219) 424-5930

Phone

Attorney for NBD Bank, N.A.

The South 15.0 feet of Lot Numbered 2,
and the East 15.0 feet of Lot Numbered 3 in Herman Young Homestead Addition,
Section "A", as recorded in the plat thereof in the Office of the Recorder
of Allen County, Indiana, more particularly described as follows:

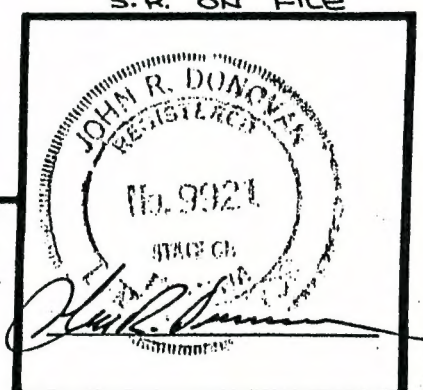
Beginning at the Southeast corner of Lot Numbered 2 in Herman Young Home-
stead Addition, Section "A", as recorded in the plat thereof in the Office
of the Recorder of Allen County, Indiana; thence West along the South line
of said Lot Numbered 2, a distance of 140.0 feet to the Southwest corner of
said Lot Numbered 2, and the Northeast corner of Lot Numbered 3 in said
Addition; thence South with a deflection angle to the left of 89 degrees
19 minutes along the East line of said Lot Numbered 3, a distance of
140.0 feet to the Southeast corner of said Lot Numbered 3; thence West
with a deflection angle to the right of 89 degrees 19 minutes along the
South line of said Lot Numbered 3, a distance of 15.0 feet; thence North
with a deflection angle to the right of 90 degrees 41 minutes and parallel
to the East line of said Lot Numbered 3, a distance of 155.0 feet; thence
East with a deflection angle to the right of 89 degrees 19 minutes, parallel
to and 15.0 feet North of the South line of the aforesaid Lot Numbered 2,
a distance of 155.0 feet to a point on the East line of said Lot Numbered 2;
thence South along the East line of said Lot Numbered 2, a distance of
15.0 feet to the point of beginning, containing 0.10 acres.

EXHIBIT "A"

EXHIBIT "B" PAGE 1

JOB FOR: SEYFERT

1"=60'
12-7-93
REV. 1-14-94



OFFICE OF:

JOHN R. DONOVAN P.E. No. 9173 P.L.S. No. 9921 INDIANA
FRANCIS X. MUELLER P.L.S. No. S0193 INDIANA
GREGORY L. ROBERTS P.L.S. No. S0548 INDIANA
FORT WAYNE, INDIANA

Measurements were made and corners perpetuated as shown hereon, in accordance with the true and established lines of the property described, and in conformity with the records in the office of the County Recorder, ALLEN County, Indiana. No encroachments existed, except as noted below.

The description of the real estate is as follows, to wit: Lot Numbered 2, Lot Numbered 3, Lot Numbered 4, and Lot Numbered 5 in Herman Young Homestead Addition, Section "A", containing 1.77 acres, as recorded in the plat thereof in the Office of the Recorder of Allen County, Indiana.

NOTE: According to the Flood Insurance Rate Map (FIRM) number 18003C0260 D, dated Sept. 28, 1990, the herein described real estate is located in Zone "X", and is not in a flood hazard area.

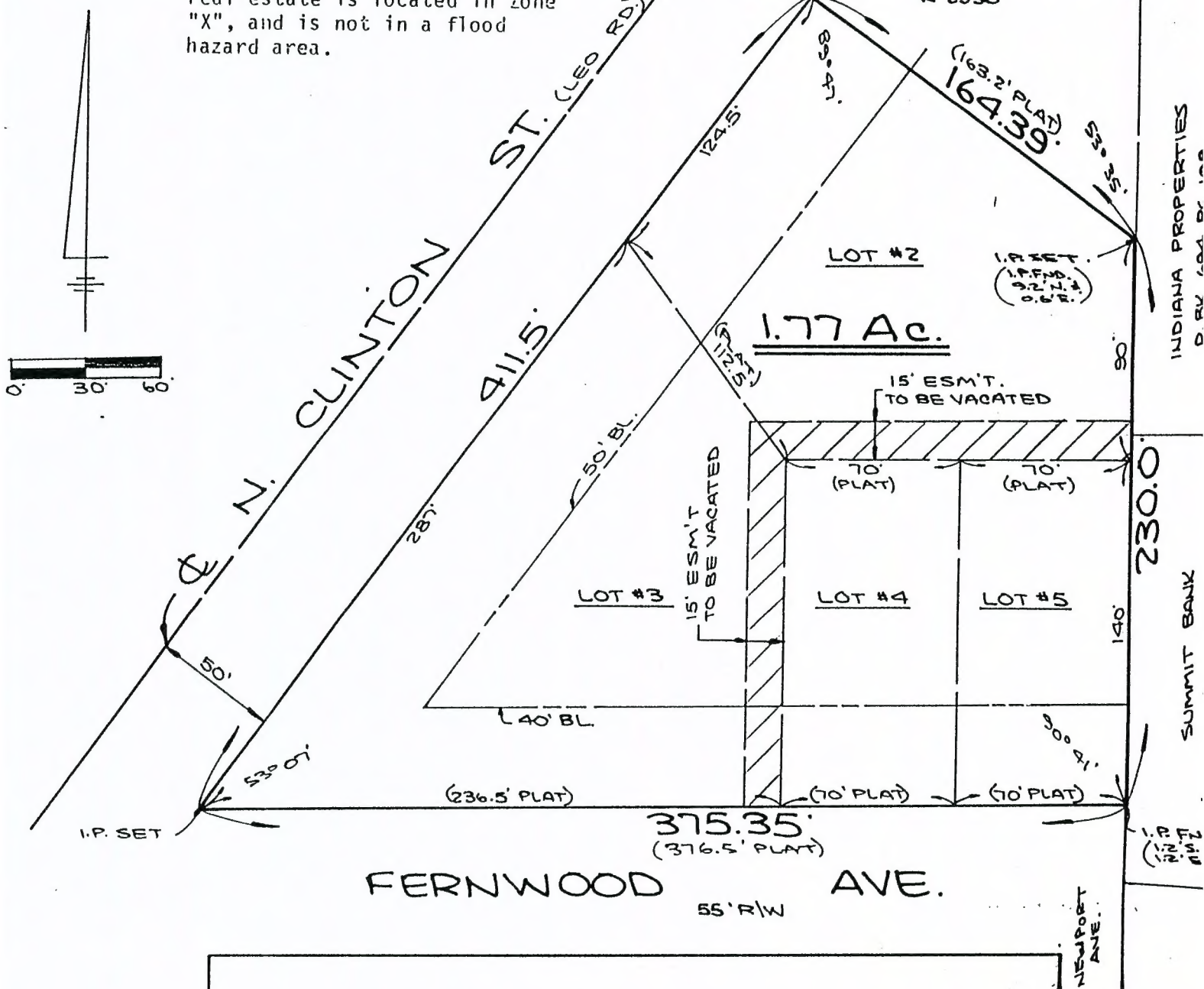
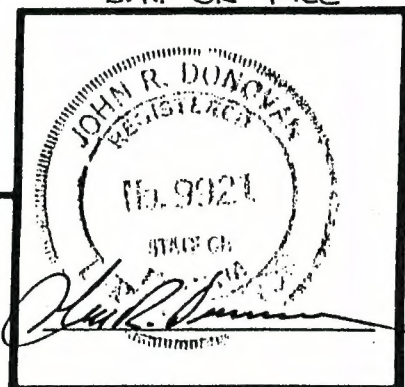


EXHIBIT "B" PAGE 1

JOB FOR: SEYFERT

1" = 60'
12-7-93
REV. 1-14-94



CERTIFICATE OF SURVEY

OFFICE OF:

DONOVAN ENGINEERING

JOHN R. DONOVAN P.E. No. 9173 P.L.S. No. 9921 INDIANA
FRANCIS X. MUELLER P.L.S. No. SO193 INDIANA
GREGORY L. ROBERTS P.L.S. No. SO548 INDIANA
FORT WAYNE, INDIANA

The undersigned Civil Engineer and Land Surveyor hereby certifies that he has made a resurvey of the real estate shown and described below.

Measurements were made and corners perpetuated as shown hereon, in accordance with the true and established lines of the property described, and in conformity with the records in the office of the County Recorder, ALLEN County, Indiana. No encroachments existed, except as noted below.

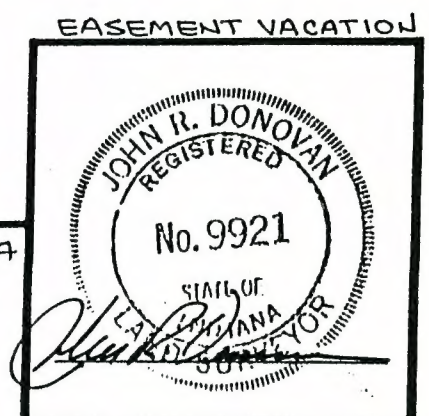
The description of the real estate is as follows, to wit: The South 15.0 feet of Lot Numbered 2, and the East 15.0 feet of Lot Numbered 3 in Herman Young Homestead Addition, Section "A", as recorded in the plat thereof in the Office of the Recorder of Allen County, Indiana, more particularly described as follows:

Beginning at the Southeast corner of Lot Numbered 2 in Herman Young Homestead Addition, Section "A", as recorded in the plat thereof in the Office of the Recorder of Allen County, Indiana; thence West along the South line of said Lot Numbered 2, a distance of 140.0 feet to the Southwest corner of said Lot Numbered 2, and the Northeast corner of Lot Numbered 3 in said Addition; thence South with a deflection angle to the left of 89 degrees 19 minutes along the East line of said Lot Numbered 3, a distance of 140.0 feet to the Southeast corner of said Lot Numbered 3; thence West with a deflection angle to the right of 89 degrees 19 minutes along the South line of said Lot Numbered 3, a distance of 15.0 feet; thence North with a deflection angle to the right of 90 degrees 41 minutes and parallel to the East line of said Lot Numbered 3, a distance of 155.0 feet; thence East with a deflection angle to the right of 89 degrees 19 minutes, parallel to and 15.0 feet North of the South line of the aforesaid Lot Numbered 2, a distance of 155.0 feet to a point on the East line of said Lot Numbered 2; thence South along the East line of said Lot Numbered 2, a distance of 15.0 feet to the point of beginning, containing 0.10 acres.

EXHIBIT "B" PAGE 2

JOB FOR: SEYFERT

1-14-94



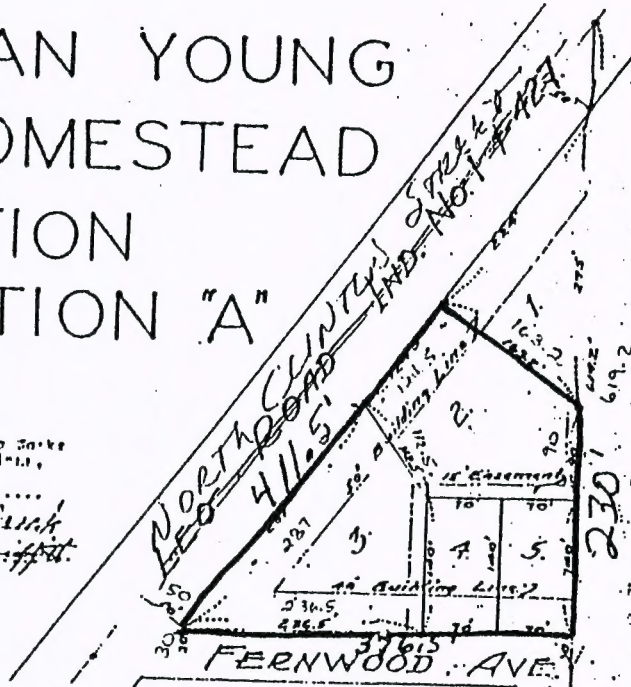
22575

59
18 59

HERMAN YOUNG HOMESTEAD ADDITION SECTION "A"

Approved by
The Board of Public Works
of Fort Wayne, Indiana,
this 11th day of
March, 1914.
Frank L. Smith
Mayor

Only Entered for Taxation
this 11th day of
March, 1914.



LOTS 2-5
ESTIMATED 76,788 sq
OR 1.76 ACRE

Being a subdivision of part of the west 1/2 of the northeast quarter of Section 2, T. 12 N., R. 11 E., Co. 2, Ind., more particularly described as follows: to wit: Beginning at the intersection of the east line of the said 1/2 of said section with the center line of the Leo Road, a now established thence south on the east line of the said Leo Road, a now established thence to the center line of the said Leo Road, thence northerly on the center line of said road to the place of beginning.

The lots are numbered from one to five both inclusive and the dimensions are marked in feet on the plat.

Surveyed and plotted this 1st day of December 1912, and I hereby certify this plat and survey of same to be correct.

Charles Lindbergh, Registered Engineer No. 271.

RESTRICTIONS

- No. 1 A building line as shown on plat, will be maintained on all lots.
- No. 2 No building will be erected nearer than 5 feet from the side lot line.
- No. 3 An easement 15 feet in width and located as shown, will be kept clear for the location of utilities.
- No. 4 Until such time as a combined sewage disposal is available all sewers will be disposed of by using venting tanks.
- No. 5 When City water lines and sewers are available the then owner of each lot in this subdivision will pay his proportionate share of the cost of connections to said water lines and sewers.
- No. 6 No dwelling costing less than \$5000.00, will be erected on any lot in this subdivision.
- No. 7 No two story dwelling will be erected having less than 550 square feet on the foundation, exclusive of porches.
- No. 8 No one story dwelling will be erected having less than 700 square feet on the foundation, exclusive of porches.
- No. 9 All lots in this subdivision will be used for residential purposes only.

Approved by the
City Planning Commission
of Fort Wayne, Indiana.

We the undersigned, do hereby
certify that we are the legal owners
of the property herein described,
this 1st day of Dec. 1912, and that
we do hereby stipulate and agree that
(CLARA E)
(Young is)
(deceased)

STATE OF INDIANA
COUNTY OF ALTIPE, 581

Before me, a Notary Public, in
and for said County and State, per-
sonally appeared, and acknowledged
the above named owners, this
1st day of Dec. 1912, and acknowledged
the execution of the foregoing plat to
be their voluntary act.

EXHIBIT "C"

RESOLUTION

WHEREAS, NBD Bank N.A. has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated utility easement situated in Fort Wayne, Allen County, to-wit:

The South 15.0 feet of Lot Numbered 2, and the East 15.0 feet of Lot Numbered 3 in Herman Young Homestead Addition, Section "A", as recorded in the plat thereof in the Office of the Recorder of Allen County, Indiana, more particularly described as follows:

Beginning at the Southeast corner of Lot Numbered 2 in Herman Young Homestead Addition, Section "A", as recorded in the plat thereof in the Office of the Recorder of Allen County, Indiana; thence West along the South line of said Lot Numbered 2, a distance of 140.0 feet to the Southwest corner of said Lot Numbered 2, and the Northeast corner of Lot Numbered 3 in said Addition; thence South with a deflection angle to the left of 89 degrees 19 minutes along the East line of said Lot Numbered 3, a distance of 140.0 feet to the Southeast corner of Lot Numbered 3; thence West with a deflection angle to the right of 89 degrees 19 minutes along the South line of said Lot Numbered 3, a distance of 15.0 feet; thence North with a deflection angle to the right of 90 degrees 41 minutes and parallel to the East line of said Lot Numbered 3, a distance of 155.0 feet; thence East with a deflection angle to the right of 89 degrees 19 minutes, parallel to and 15.0 feet North of the South line of the aforesaid Lot Numbered 2, a distance of 155.0 feet to a point on the East line of said Lot Numbered 2; thence South along the East line of said Lot Numbered 2, a distance of 15.0 feet to the point of beginning, containing 0.10 acres.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-3-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said public hearing was held on June 20, 1994 at 7:00 P.M. and at such hearing there were no objections of any kind or character which should prevent the vacation of said dedicated utility easement.

WHEREAS, said vacation of dedicated utility easement has been routed through the following departments: Street Engineering, Traffic Engineering, Water Engineering, Water Pollution Control Engineering, Street Light Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated utility easement hereinbefore described conforms to the general policy pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana;

BE IT FURTHER RESOLVED by the Fort Wayne City Plan Commission that the vacation of said dedicated utility easement hereinbefore described be and the same is hereby approved.

BE IT FURTHER RESOLVED no public utility occupying and using said dedicated utility easement or part thereof for the vacation and operation of its utility facilities shall be deprived of said use on account of these proceedings unless any said utility shall file a written consent to said vacation.

BE IT FURTHER RESOLVED that the action of the Fort Wayne

City Plan Commission be forwarded to the proper governing body having jurisdiction of the vacation of said dedicated utility easement in Allen County, Indiana.

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

I, Carol Kettler Sharp, Secretary of the Fort Wayne City Plan Commission, do hereby certify that attached is a full true and correct copy of a resolution adopted by the Fort Wayne City Plan Commission following a public hearing of said Commission held, June 27, 1994 and as the same appears of record in the official records of said Plan Commission.

DATED THIS 28th DAY OF June 1994


FORT WAYNE CITY PLAN COMMISSION

Carol Kettler Sharp
Secretary

Wayne Board of Public Works at their meeting held
JUNE 29 1994 and as same appears of
record in the official records of the Board of Public Works.

DATED THIS 29 DAY OF JUNE 1994

FORT WAYNE BOARD OF PUBLIC WORKS



Charles E. Layton
Director of Public Works



Katherine A. Carrier
Member, Board of Public Works



C. James Owen
Member, Board of Public Works

RESOLUTION 81-98-6

WHEREAS, NBD Bank N.A. has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following dedicated utility easement situated in Fort Wayne, Allen County, to-wit:

The South 15.0 feet of Lot Numbered 2, and the East 15.0 feet of Lot Numbered 3 in Herman Young Homestead Addition, Section "A", as recorded in the plat thereof in the Office of the Recorder of Allen County, Indiana, more particularly described as follows:

Beginning at the Southeast corner of Lot Numbered 2 in Herman Young Homestead Addition, Section "A", as recorded in the plat thereof in the Office of the Recorder of Allen County, Indiana; thence West along the South line of said Lot Numbered 2, a distance of 140.0 feet to the Southwest corner of said Lot Numbered 2, and the Northeast corner of Lot Numbered 3 in said Addition; thence South with a deflection angle to the left of 89 degrees 19 minutes along the East line of said Lot Numbered 3, a distance of 140.0 feet to the Southeast corner of Lot Numbered 3; thence West with a deflection angle to the right of 89 degrees 19 minutes along the South line of said Lot Numbered 3, a distance of 15.0 feet; thence North with a deflection angle to the right of 90 degrees 41 minutes and parallel to the East line of said Lot Numbered 3, a distance of 155.0 feet; thence East with a deflection angle to the right of 89 degrees 19 minutes, parallel to and 15.0 feet North of the South line of the aforesaid Lot Numbered 2, a distance of 155.0 feet to a point on the East line of said Lot Numbered 2; thence South along the East line of said Lot Numbered 2, a distance of 15.0 feet to the point of beginning, containing 0.10 acres.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-3-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said vacation of dedicated utility easement has been routed through the following departments: Street Engineering, Traffic Engineering, Water Pollution Control Engineering, Electrical Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that the vacation of said dedicated utility easement hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana.

BE IT FURTHER RESOLVED by the Board of Public Works that the vacation of said dedicated utility easement hereinbefore described be and the same is hereby approved subject to easements as required by all public utilities occupying and using said portion of dedicated utility easement or part thereof for the vacation and operation of its utility facilities shall not be deprived of said use on account of these proceedings unless any said utilities shall file a written consent to said vacation.

STATE OF INDIANA))
COUNTY OF ALLEN) SS:

I, CHARLES E. LAYTON, Director of the Board of Public Works, do hereby certify that attached hereto is a full, true and correct copy of a resolution adopted by the Fort

564

ORIGINAL

ORIGINAL

94-06-13

DIGEST SHEET

TITLE OF ORDINANCE Utility Easement Vacation

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE A 15 foot utility easement. The south
15 feet of Lot #2 and the east 15 feet of Lot #3 in Herman
Young Addition.

94-06-13

EFFECT OF PASSAGE Property is currently a dedicated utility
easement. Property will be vacated and revert to the ownership
of the adjacent property owners.

EFFECT OF NON-PASSAGE Property will remain a dedicated
utility easement.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

(ASSIGN TO COMMITTEE) _____

Division of Community Development & Planning

LAST SHEET

G-94-06-13

BILL NUMBER

BRIEF TITLE

APPROVAL DEADLINE

REASON

Utility Easement Vacation

DETAILS

Specific Location and/or Address

The south 15 feet of Lot #2 and the east 15 feet of Lot #3 in Herman Young Homestead Addition.

Reason for Project

To allow for the sale of the property for future commercial development.

Discussion (Including relationship to other Council actions)

20 June 1994 - Public Hearing

(See Attached Minutes of Meeting)

27 June 1994 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation.

Of the seven (7) members present, six (6) voted in favor of the motion. The Chair did not vote. Motion carried.

Members Present: Ernest Evans, James Hoch, Charles Layton, Thomas Quirk, Dave Ross, Carol Kettler Sharp, Mel Smith

Members Absent: Mark GiaQuinta, Vicky VerPlanck

POSITIONS

RECOMMENDATIONS

Sponsor

Area Affected

City Wide

Other Areas

Applicants/ Proponents

Applicant(s)

NBD Bank

City Department

Other

Opponents

Groups or Individuals

Scott Henderson

Basis of Opposition

-felt there was already enough commercial in this area

Staff Recommendation

☒ For

☐ Against

Reason Against

Board or Commission Recommendation

By

☒ For

☐ Against

☐ No Action Taken

☐ For with revisions to conditions
(See Details column for conditions)

CITY COUNCIL ACTIONS (For Council use only)

☐ Pass

☐ Other

☐ Pass (as
amended)

☐ Hold

☐ Council Sub.

☐ Do not pass

DETAILS

POLICY / PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start Date 10 May 1994

Projected Completion or Occupancy Date 7 July 1994

Fact Sheet Prepared by Patricia Biancaniello Date 7 July 1994

Reviewed by Date 7 July 1994

Reference or Case Number

Bill No. G-94-06-13 - Vacation Petition #566

A utility easement - the south 15 feet of Lot #2 and the east 15 feet of Lot #3 in Herman Young Homestead Addition.

Dale Bloom, attorney for NBD Bank appeared before the Commission. Mr. Bloom stated that NBD Bank is the property owner of Lots 2, 3, 4 and 5 in this subdivision. He stated that Lot 1 is owned by a division of Super Valu Stores, which is part of Scotts. He stated that the utility easement that they are asking to vacate is a 15 foot easement that crosses Lots 3, 4 & 5 and the base of Lot 2. He stated that the property was acquired by NBD Bank over a year ago. He stated that the current zoning on the property is B-4. He stated that the current restrictive covenants against this particular lot call for residential usage. He stated that he has filed a petition to vacate and set aside the existing restrictive covenants and the division of Super Valu Stores have concurred with that request. He stated that the petition to vacate the covenants will be heard on June 27, 1994 by the Plan Commission. He stated that to the best of his knowledge there are no utility improvements within the area. He stated that they wish to vacate the easement because they wish to sell this property for commercial usage and with the easement in place it makes it very difficult, if not impossible, to utilize this property.

Mel Smith questioned where the access would be for this property.

Mr. Bloom stated that he is not aware that has been planned. He stated that NBD Bank has a potential purchaser for the property. He stated that any potential purchaser would have to comply with the access requirements for the property.

Dave Ross questioned if there were any known utilities in the easement.

Mr. Bloom stated that he was of the understanding that this area has gone undeveloped and no utilities have been put in the easement.

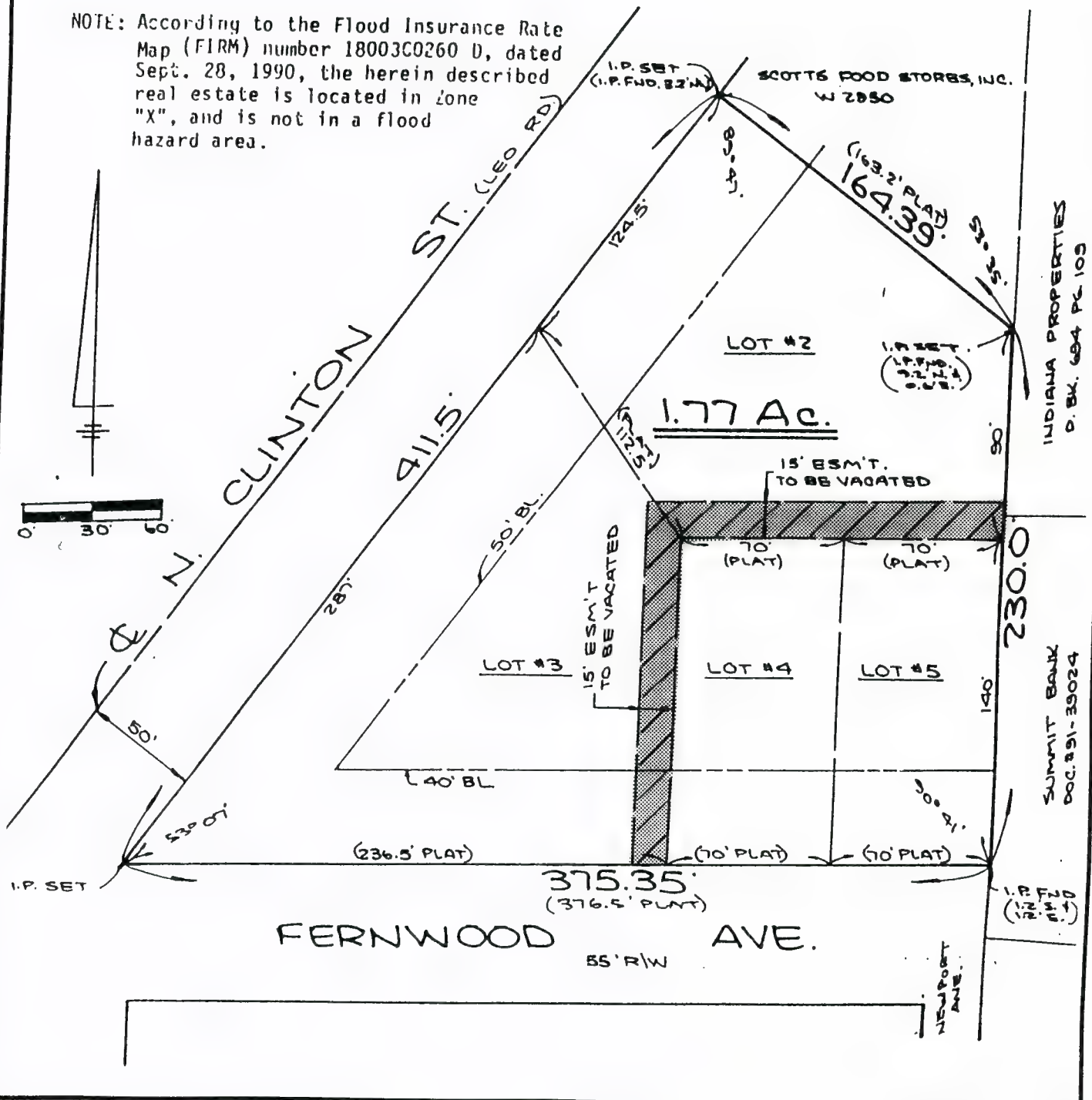
Mel Smith questioned if there are any utilities in the easement are they willing to comply with any relocation that could be needed.

Mr. Bloom stated that either they would or it would be disclosed to the potential purchaser that they would be liable to do so.

Scott Henderson, stated that he lived approximately 100 feet from the site. He stated that he opposed any commercial development of this property.

In rebuttal, Mr. Bloom stated that the surrounding area is commercial. He stated that Lot 1 is currently used by Super Valu stores for commercial use and technically is in violation of the Restrictive Covenants. He stated that they are not asking to rezone the property, it is currently zoned B-4, which is a

CASE NO. #566



Map No. N-26
LW 5-22-94

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUD	Planned Unit Dev.	POD	Professional Office District		

BILL NO. G-94-06-13

REPORT OF THE COMMITTEE ON
REGULATIONS
REBECCA J. RAVINE - MARK E. GIAQUINTA - CO-CHAIR
DONALD J. SCHMIDT
JANET G. BRADURY

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) for the purpose of vacating
a dedicated utility easement

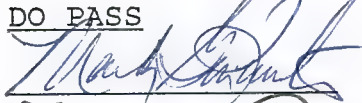
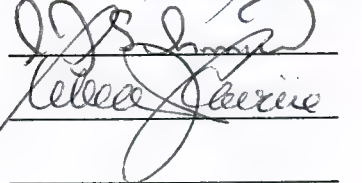
HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

DATED: 7-26-94.

Sandra E. Kennedy
City Clerk



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ROOM 122 • FORT WAYNE, INDIANA 46802 • 219-427-1221

SANDRA E. KENNEDY, CITY CLERK

July 13, 1994

Ms. Connie Lambert
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Lambert:

Please give the attached full coverage on the date of July 16, 1994,
in both the News Sentinel and Journal Gazette.

RE: Legal Notice for Common Council
of Fort Wayne, IN

Bill No. G-94-06-13
Utility Easement Vacation

Please send us 3 copies of the Publisher's Affidavit from both
newspapers.

Thank you.

Sincerely yours,

Sandra E. Kennedy
City Clerk

SEK/ne
ENCL: 1



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ROOM 122 • FORT WAYNE, INDIANA 46802 • 219-427-1221

SANDRA E. KENNEDY, CITY CLERK

July 13, 1994

A Dale Bloom, Attorney
203 E Berry Street
Ste 1500
Fort Wayne, IN 46802

NOTICE OF PUBLIC HEARING ON BILL NO. G-94-06-13

You are hereby notified that the Common Council of Fort Wayne will conduct a public hearing on Tuesday, July 26, 1994, at 5:30 P.M., in the Common Council Conference Room 128, 1st Floor, City-County Building, One Main Street, Fort Wayne, Indiana, on the following:

the south 15 feet of Lot #2 and the east
15 feet of Lot #3 in Herman Young Homestead
Addition - To allow for the sale of
property for future commercial development

All interested persons are invited to appear and be heard. Any written material may be submitted to the Common Council prior to the hearing.

FORT WAYNE COMMON COUNCIL

Sandra E. Kennedy
City Clerk

NOTICE OF PUBLIC HEARING
FORT WAYNE COMMON COUNCIL
BILL NO. G-94-06-13

Notice is hereby given that the Fort Wayne Common Council of the City of Fort Wayne, will conduct a public hearing on Tuesday, July 26, 1994, at 5:30 P.M., in the Common Council Conference Room 128, City-County Building, One Main Street, Fort Wayne, Indiana, more particularly described as follows:

22 The South 15.0 feet of Lot Numbered 2, and the East 15.0
23 feet of Lot Numbered 3 in Herman Young Homestead
24 Addition, Section "A", as recorded in the plat thereof in
 the Office of the Recorder of Allen County, Indiana, more
 particularly described as follows:

25 Beginning at the Southeast corner of Lot Numbered 2 in
26 Herman Young Homestead Addition, Section "A", as recorded
27 in the plat thereof in the Office of the Recorder of
28 Allen County, Indiana; thence West along the South line
29 of said Lot Numbered 2, a distance of 140.0 feet to the
30 Southwest corner of said Lot Numbered 2, and the
31 Northeast corner of Lot Numbered 3 in said Addition;
32 thence South with a deflection angle to the left of 89
 degrees 19 minutes along the East line of said Lot
 Numbered 3, a distance of 140.0 feet to the Southeast
 corner of Lot Numbered 3; thence West with a deflection
 angle to the right of 89 degrees 19 minutes along the
 South line of said Lot Numbered 3, a distance of 15.0
 feet; thence North with a deflection angle to the right
 of 90 degrees 41 minutes and parallel to the East line of
 said Lot Numbered 3, a distance of 155.0 feet; thence
 East with a deflection angle to the right of 89 degrees
 19 minutes, parallel to and 15.0 feet North of the South
 line of the aforesaid Lot Numbered 2, a distance of 155.0
 feet to a point on the East line of said Lot Numbered 2;
 thence South along the East line of said Lot Numbered 2,
 a distance of 15.0 feet to the point of beginning,
 containing 0.10 acres.

All interested parties are invited to appear and be heard.

FORT WAYNE COMMON COUNCIL

Sandra E. Kennedy
City Clerk

From the desk of:

Fat Biancaniello

7-12-94

AGENT:

A Dale Bloom
203 E Berry St
Ste 1500
City 02

PHONE: 424-5930

FW COMMON COUNCIL
(Governmental Unit)

To: The Journal-Gazette Dr.
P.O. Box 100
Fort Wayne, IN

ALLEN County, Indiana

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)
-- number of equivalent lines
Head -- number of lines
Body -- number of lines
Tail -- number of lines
Total number of lines in notice

COMPUTATION OF CHARGES

47 lines, 1 columns wide equals 47 equivalent lines
at .33 cents per line \$ 15.51
Additional charge for notices containing rule or tabular work (50 percent of above amount)
Charge for extra proofs of publication (\$1.00 for each proof in excess of two)
TOTAL AMOUNT OF CLAIM \$ 15.51

DATA FOR COMPUTING COST

Width of single column 12.5 ems
Number of insertions 1
Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Julie L Rohyans
Clerk

Date: JULY 16, 19 94

Title:

PUBLISHER'S AFFIDAVIT

State of Indiana)
) ss:
Allen County)

Personally appeared before me, a notary public in and for said county and state, the undersigned JULIE L ROHYANS who, being duly sworn, says that he/she is Clerk of the The Journal-Gazette newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 1 time, the dates of publication being as follows:

7/16/94
Julie L Rohyans

Subscribed and sworn to before me this 16th day of JULY, 1994.

Mary L Adkison
Notary Public

MARY L ADKISON
NOTARY PUBLIC STATE OF INDIANA
ALLEN COUNTY
MY COMMISSION EXP JUNE 14, 1997

My commission expires:

NOTICE OF PUBLIC HEARING
FORT WAYNE COMMON COUNCIL
BILL NO. G-94-06-13
Notice is hereby given that the Fort Wayne Common Council of the City of Fort Wayne, will conduct a public hearing on Tuesday, July 26, 1994, at 5:30 P.M., in the Common Council Conference Room 28, City-County Building, One Main Street, Fort Wayne, Indiana, more particularly described as follows:
The South 15.0 feet of Lot Numbered 2, and the East 15.0 feet of Lot Numbered 3 in Herman Young Homestead Addition, Section A, as recorded in the plat thereof in the Office of the Recorder of Allen County, Indiana; thence West along the South line of said Lot Numbered 2, a distance of 140.0 feet to the Southwest corner of said Lot Numbered 2, and the Northeast corner of Lot Numbered 3 in said Addition; thence South with a deflection angle to the left of 89 degrees 19 minutes along the East line of said Lot Numbered 3, a distance of 140.0 feet to the Southeast corner of Lot Numbered 3; thence West with a deflection angle to the right of 89 degrees 19 minutes along the South line of said Lot Numbered 3, a distance of 15.0 feet; thence North with a deflection angle to the right of 0 degrees 41 minutes and parallel to the East line of said Lot Numbered 3, a distance of 155.0 feet; thence East with a deflection angle to the right of 89 degrees 19 minutes, parallel to and 15.0 feet North of the South line of the aforesaid Lot Numbered 2, a distance of 155.0 feet to a point on the East line of said Lot Numbered 2; thence South along the East line of said Lot Numbered 2, a distance of 15.0 feet to the point of beginning, containing 0.10 acres. All interested parties are invited to appear and be heard.
FORT WAYNE COMMON COUNCIL
Sandra E. Kennedy
City Clerk
#649532

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State of Indiana)
) ss:
Allen County)

Personally appeared before me, a notary public in and for said county and state, the undersigned JULIE L ROHYANS who, being duly sworn, says that he/she is Clerk of the The News-Sentinel newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 1 time , the dates of publication being as follows:

7/16/94

Julie L Rohyans

Subscribed and sworn to before me this 16th day of JULY, 19 94.

Mary L Adkison

Notary Public

MARY L ADKISON
NOTARY PUBLIC STATE OF INDIANA
ALLEN COUNTY
MY COMMISSION EXP JUNE 14, 1997

NOTICE OF PUBLIC HEARING
FORT WAYNE COMMON COUNCIL
BILL NO. G-94-06-13
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The South 15.0 feet of Lot Numbered 2, and the East 15.0 feet of Lot Numbered 3 in Herman Young Homestead Addition, Section A, as recorded in the plat thereof in the Office of the Recorder of Allen County, Indiana, more particularly described as follows:
Beginning at the Southeast corner of Lot Numbered 2 in Herman Young Homestead Addition, Section A, as recorded in the plat thereof in the Office of the Recorder of Allen County, Indiana; thence West along the South line of said Lot Numbered 2, a distance of 140.0 feet to the Southwest corner of said Lot Numbered 2, and the Northeast corner of Lot Numbered 3 in said Addition; thence South with a deflection angle to the left of 89 degrees 19 minutes along the East line of said Lot Numbered 3, a distance of 140.0 feet to the Southeast corner of Lot Numbered 3; thence West with a deflection angle to the right of 89 degrees 19 minutes along the South line of said Lot Numbered 3, a distance of 15.0 feet; thence North with a deflection angle to the right of 90 degrees 41 minutes and parallel to the East line of said Lot Numbered 3, a distance of 155.0 feet; thence East with a deflection angle to the right of 89 degrees 19 minutes, parallel to and 15.0 feet North of the South line of the aforesaid Lot Numbered 2, a distance of 155.0 feet to a point on the East line of said Lot Numbered 2; thence South along the East line of said Lot Numbered 2, a distance of 15.0 feet to the point of beginning, containing 0.10 acres. All interested parties are invited to appear and be heard.
FORT WAYNE COMMON COUNCIL
Sandra E. Kennedy